

## REMARKS

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to an Office Action mailed on March 24, 2004. Claims 129, 133-146 and 150-171 are rejected. Claims 129, 146, 158 and 171 have been amended. No claims have been added. No new matter has been added.

### Rejections under 35 U.S.C. § 103

The Examiner rejected claims 129, 133-137, 141-146, 150-156 and 158-171 under 35 U.S.C. 103 (a) as being unpatentable over Sunshine, et al., (U.S. Patent 6,085,576, hereinafter “Sunshine”) in view of Tarrant, (EP Patent 0450829 hereinafter “Tarrant”). Claims 138-140 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Sunshine, in view of Tarrant and further in view of Amano, (U.S. Patent 5,941,837, hereinafter “Amano”). Claim 157 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sunshine in view of Tarrant and further in view of Amano and further in view of McNabb, (U.S. Patent No. 5,927,603, hereinafter “McNabb”) and further in view of Durbin (U.S. Patent 6,039,258 hereinafter “Durbin”) and further in view of King, et al., (U.S. Patent 4,565,999, hereinafter “King”). As discussed below, the pending claims are patentable over the above references.

Applicants respectfully submit the cited art fails to teach, *inter alia*, as claimed in claim 129: “a user interface to allow users of the handheld apparatus to interact with the handheld apparatus during the data acquisition.” Similar features are also contained in the language of independent claims 146, 158, 171.

Sunshine is directed to a handheld sensing device which is used to sense the presence and concentration of specified vapors. Sunshine includes a display and optionally input

devices, such as push buttons a keypad, and the like. Sunshine contemplates that users will select from one of several operating modes. After an operating mode has been selected, the user is optionally presented with the results.

Sunshine merely teaches that users can select an operating mode, and after the device has completed its detection, the user may optionally be able to view the results. In particular, at col. 13, lines 48-54, Sunshine discloses that:

The processor executes program codes that coordinate various operations of the e-nose device. The program codes include interaction software that assists the user in selecting the operating modes and methods and to initiate the tests. After the e-nose device performs a test or operation, the user is optionally presented with concise results.

In addition, Sunshine discloses at page 17, line 62 through page 18, line 58 that the user selects a mode and a particular method within the mode. In each of the methods disclosed in Col. 18, the user selects the mode and the user does not interact with the device, at all. After, the device has completed operation, the device presents the results. Thus, Sunshine fails to disclose that the user of the handheld device is able to interact with the device once an operating mode has been selected.

In contrast, the present invention, as claimed in claim 129, allows the user to interact with the device during the data acquisition process, as well as before and after the data acquisition process. Thus, as described in the present specification at page 10, a single interactive process is available in a portable, flexible, synergistic format. Hence, as described at page 12 in the present specification, in certain embodiments, the capability to sense, evaluate, compare, analyze, and act based on contextual cues from sensors not present or currently activated in the hand-held computer, or from machine-based sensor readings not otherwise accessible to a human user, allows immediate context-based feedback on both the process and the results. Thus, in certain embodiments, experimental corrections can be made

that incorporate local or remote judgment and analysis without delay or separation between the observer and the actor through the intermediary of the hand-held device.

Thus, claim 129 is patentable over the cited art. Applicants respectfully submit that for at least the same reason advanced above with respect to claim 129, amended independent claims 146, 158, and 171 are not obvious under 35 U.S.C. § 103 (a) over the cited art. Claims 133-145, 150-157, 159-170 depend on their corresponding independent claims 129, 146, and 158 and include features that further limit independent claims. Therefore, for at least the same reasons advanced above with respect to independent claims, claims 133-145, 150-157, 159-170 are not obvious under 35 U.S.C. § 103 (a) over the cited art.

The Examiner admits that Sunshine fails to teach a sensor to be programmable by the computer. The Examiner, however, points to Tarrant as teaching an intelligent sensor that can be programmed by a computer that allows the sensor to perform a number of different functions. The Examiner then argues that it would have, therefore, been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the intelligent sensor of Tarrant with the handheld apparatus of Sunshine because it would provide for allowing user to program the sensor for use in a specific application.

Applicants respectfully submit that there is no motivation to combine Tarrant and Sunshine to arrive at the present invention, as claimed in independent claims 129, 146, 158 and 171. In fact, the Examiner has pointed to no teaching in the cited art for combining these references.

In particular, Sunshine teaches that: “the device can be coupled to a computer, such as a personal computer, for access to set-up and advanced features and for transfer of data files.”

(Col. 2, lines 45-47.) In addition, at col. 11, lines 27-32, Sunshine teaches that: “Host computer 1110 can be used to update e-nose device 100 with various information such as the identity of various target vapors to which the device is to be exposed, as well as to retrieve information from the device such as the results of the device’s sample analyses.” Thus, Sunshine contemplates that a host computer may be used for more advanced processing steps.

Tarrant teaches that “the user can reprogram the sensor to refine its sensing parameters as needs dictate.” However, Tarrant does not teach or suggest that the sensor can be used with a handheld computer. Moreover, Tarrant fails to teach or suggest that the sensor can be programmable by the handheld computer. Based on the disclosure in Tarrant, Tarrant contemplates that a user will reprogram the sensor for a particular use with a host computer, as well. Tarrant teaches that: “A system may comprise a plurality of intelligent sensors as described above, together with a supervisor monitor/control computer.”

Thus, there is no motivation to combine Sunshine and Tarrant to arrive at the present invention, as claimed in independent claims 129, 146, 158 and 171. Moreover, even if Sunshine and Tarrant were combinable, the combination fails to teach or suggest a sensor, which is programmable by a handheld computer device.

With respect to Claim 157, the Examiner has also failed to point to a teaching in the cited art for combining each of Amano, McNabb, King, Durbin, Sunshine and Tarrant. Applicants respectfully request the Examiner to point to such a teaching for the combination, as well.

Therefore, Applicants respectfully submit that the presently claimed invention is not obvious under 35 U.S.C. § 103 (a) over the cited art.

The Applicants submit that the rejection under 35 U.S.C. 103 (a) has been addressed, and withdrawal of this rejection is respectfully requested. The Applicants furthermore submit that all pending claims are in condition for allowance, which is earnestly solicited.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

#### **DEPOSIT ACCOUNT AUTHORIZATION**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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